

RECEIVED

AUG 11 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL
FILE

In the Matter of)
)
Amendment of Sections)
90.631(g) and (h) of the)
Commission's Rules and)
Regulations Concerning Wide)
Area Specialized Mobile Radio)
and Business Radio Systems)

RM - 8029

To: The Commission

COMMENTS OF FLEET CALL, INC.

FLEET CALL, INC.

Robert S. Foosaner, Esq.
Lawrence R Krevor, Esq
601 13th Street, N.W.
Suite 1110
Washington, D.C. 20005

August 11, 1992

No. of Copies rec'd
List A B C D E

574

RECEIVED

AUG 11 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Amendment of Sections) RM - 8029
90.631(g) and (h) of the)
Commission's Rules and)
Regulations Concerning Wide)
Area Specialized Mobile Radio)
and Business Radio Systems)

To: The Commission

COMMENTS OF FLEET CALL, INC.

I. INTRODUCTION

Fleet Call, Inc. ("Fleet Call"), pursuant to Section 1.405 of the Rules and Regulations of the Federal Communications Commission (the "Commission"), respectfully submits its Comments in the above-captioned proceeding.

Fleet Call is one of the nation's leaders in developing advanced, highly-efficient, wide-area digital mobile communications systems. It conceptualized and is constructing Enhanced Specialized Mobile Radio ("ESMR") systems in six of the largest metropolitan areas in the country.^{1/} These systems incorporate state-of-the-art technology, including digital speech coding, Time Division Multiple Access ("TDMA") transmission and frequency reuse

^{1/} On February 13, 1991, the Commission authorized Fleet Call to construct and operate 800 MHz ESMR systems in Chicago, Dallas, Houston, Los Angeles, New York and San Francisco. See In Re Request of Fleet Call, Inc. for Waiver and Other Relief to Permit Creation of Enhanced Specialized Mobile Radio Systems in Six Markets, 6 FCC Rcd 1533 (1991) (the "Fleet Call Waiver Order"), recon. den. 6 FCC Rcd 6989 (1991).

to yield in excess of 15 times the customer capacity of existing Specialized Mobile Radio ("SMR") systems while providing improved transmission quality and enhanced services. Fleet Call's first ESMR system will be operational in Los Angeles in the summer of 1993.^{2/}

II. BACKGROUND

On March 13, 1992, the National Association of Business and Educational Radio, Inc. ("NABER") filed a Petition for Rulemaking (the "Petition") seeking amendment of Sections 90.631(g) and (h) of the Commission's Rules to authorize licensees in the Business Radio Service and SMR service to construct and operate wide-area private land mobile radio systems. By Report No. 1899, dated July 13, 1992, the Commission invited comments on the Petition.

NABER states that Sections 90.631(g) and (h) of the Rules prevent SMR and Business Radio licensees from establishing multiple primary sites reusing the same set of frequencies thereby hampering their ability to create wide-area systems.^{3/} It proposes amending these Rules to authorize SMR licensees to construct wide-

^{2/} Fleet Call is committed to promoting the nationwide availability of advanced digital SMR mobile communications infrastructure and services. It has proposed that the Commission create "innovator blocks" of unassigned 800 MHz trunked SMR frequencies in 180 Metropolitan Statistical Areas and use auctions to license them for advanced digital systems. These innovator blocks would use spectrum that has lain fallow for over a decade to provide additional services in underserved areas and accelerate the development of a seamless nationwide digital SMR network. See RM - 7985, filed April 22, 1992.

^{3/} Section 90.631 permits Part 90 eligibles other than SMRs to establish wide area systems. It limits authorization of remote stations in wide area systems licensed to Business Radio licensees to secondary status.

area systems using the same frequency (provided they comply with the 40-Mile Rule)^{4/} and to permit Business licensees to have remote sites on a primary basis.^{5/} NABER maintains that these revisions would permit the affected licensees to reuse their original set of channels wherever possible, thereby enhancing spectrum efficiency and preserving other frequencies for different licensees.

III. DISCUSSION

Fleet Call supports rule changes that remove regulatory barriers to and accelerate development of wide-area, regional and national SMR systems.^{6/} Fleet Call agrees with the Petition's objective that the Commission revise its rules to facilitate SMRs reconfiguring their systems using digital technology and frequency reuse to increase capacity and improve coverage.^{7/}

Fleet Call submits, however, that the Petition should not be

^{4/} Section 90.627 of the Rules (the "40 Mile Rule") limits a licensee from having more than one unloaded trunked SMR system within 40 miles of another.

^{5/} NABER states that its proposal is not intended to impact Enhanced Specialized Mobile Radio (ESMR) or other advanced SMR systems authorized by the Commission based on their "aggregate loading" over a wide "footprint" area. See the Fleet Call Waiver Order, supra. n. 1. NABER's proposal appears to be intended to permit licensees that do not meet the aggregate loading requirement to relicense the same frequency in a wide-area system.

^{6/} Although Fleet Call generally supports rule revisions to accelerate wide-area SMR services, the Petition is confusing as to precisely what relief it requests -- particularly since it would leave the 40 Mile rule in effect. Moreover, SMR licensees are free to obtain multiple primary sites for the same frequencies through consensual short spacing of their existing channel assignments.

^{7/} Petition at p. 4.

considered in a vacuum. It addresses only one rule provision that impedes the ability of SMR licensees to meet the public's need for advanced, wide-area private land mobile communications capabilities. It does not address eliminating the 40 Mile Rule,^{8/} the rule that limits assignments of 800 MHz trunked channels to five-at-a-time,^{9/} and other regulatory "leftovers" from the early days of the SMR industry that frustrate the development of ubiquitous digital wide-area SMR systems.

Accordingly, Fleet Call submits that the public interest would be best served by evaluating NABER's Petition as part of a comprehensive set of SMR rule revisions designed to facilitate the ability of SMR licensees to offer competitive, advanced wide-area mobile communications services to the public.

IV. SUMMARY

Fleet Call endorses revisions of the Commission's Rules that promote the advancement of wide-area SMR capabilities. Granting the relief sought by NABER, however, is not sufficient to accomplish that result. The Commission should consider NABER's

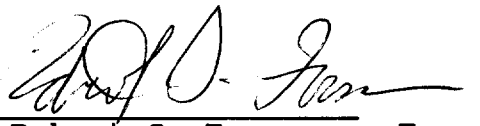
^{8/} Fleet Call is today filing Comments in response to a Petition for Rulemaking filed by A&B Electronics, Inc. to modify the 40 Mile Rule to allow aggregating mature (loaded) SMR systems and institution of a system license. The issues raised in that Petition are interrelated with the subject Petition. The public interest would be better served by a consolidated consideration of these proposals in the context of a broader review of private land mobile licensing provisions, as discussed below.

^{9/} Section 90.621(a)(1)(iv) of the Rules.

proposal in combination with other initiatives for comprehensive revision of the SMR regulations, including A&B's Electronic's 40-Mile Rule Petition.

Respectfully submitted,

FLEET CALL, INC.

By, 
Robert S. Foosaner, Esq.
Lawrence R. Krevor, Esq.

601 13th Street, N.W.
Washington, D.C. 20005

Dated: August 11, 1992

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments of Fleet Call, Inc. has been mailed by United States first class mail, postage prepaid, this 11th day of August, 1992, to the following:

Mr. Ralph A. Haller*
Chief, Private Radio Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

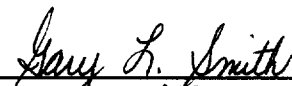
Ms. Beverly G. Baker*
Deputy Chief, Private Radio Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

Mr. Richard J. Shiben*
Chief, Land Mobile and Microwave
Division, Private Radio Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5202
Washington, D.C. 20554

Kent Y. Nakamura, Esq.*
Legal Counsel
Private Radio Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

Elizabeth R. Sachs, Esq.
Lukas, McGowan, Nace & Gutierrez
1819 H Street, N.W., Suite 700
Washington, D.C. 20006

David E. Weisman, Esq.
Alan S. Tilles, Esq.
Meyer, Faller, Weisman
& Greenburg, P.C.
4400 Jenifer Street, N.W.
Washington, D.C. 20015



Gary L. Smith

*hand-delivered